



29 JAN 2010

Patent Legal Staff
Eastman Kodak Company
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In re Application of	:	
INGLESE, et al.	:	DECISION ON PETITION
Serial No.: 10/598,017	:	
PCT No.: PCT/EP2005/001208	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 07 February 2005	:	
Priority Date: 20 February 2004	:	
Atty Docket No.: 87729NAB	:	
For: EQUIPMENT AND METHOD FOR MEASURING:	:	
DENTAL SHADE	:	

This decision is in response to applicant's petition under 37 CFR 1.47(a) filed 08 January 2010 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Anne Croguenac.

BACKGROUND

On 07 February 2005, applicant filed international application PCT/EP2005/001208 which claimed priority to a previous application filed 20 February 2004. A copy of the international application was transmitted to the USPTO from the International Bureau (IB) on 01 September 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 20 August 2006.

On 16 August 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an unsigned declaration, a preliminary amendment and an Information Disclosure Statement.

On 08 October 2009, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 08 January 2010, applicant filed the present petition under 37 CFR 1.47(a) accompanied by a petition for a one-month extension of time. With payment of the one-month extension of time, applicant's present response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1, 3 and 4.

As to item (2), in order to satisfy this item in situations where the non-signing inventor cannot be located despite diligent effort, applicant must include the results of any internet or telephone directory searches which were performed in an effort to locate the non-signing inventor. In addition, applicant should include a statement from the individual who made these inquiries. As stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts." These materials have not been supplied in the present petition. In addition, the statement of Ms. Wurtz only provides firsthand knowledge of her email communications with the other two joint inventors. It does not support a presentation of a complete set of application papers to the non-signing inventor nor diligent efforts to locate the inventor. As such, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration or electronically filed utilizing the USPTO's EFS-Web electronic filing system..



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